

Wolfeboro, New Hampshire
Article 2.3 Wetlands Conservation Overlay District
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Lakes Regional Planning Commission
(603) 279-8171
Zoning Ordinance
Adopted 1979
Revised 1990
Court Challenged: No

ARTICLE 2.3 AQUIFER PROTECTION OVERLAY DISTRICT
WOLFEBORO PLANNING AND ZONING ORDINANCE
As amended through March 12, 1991
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2.3 AQUIFER PROTECTION OVERLAY DISTRICT (Added 1988)(Amended~1990)

2.3.1 PURPOSE AND INTENT The Town. of Wolfeboro adopts this Overlay District for the promotion of the health, safety and general welfare of its residents by protecting the ground water resources of the Town from adverse development of land use practices (such as but not limited to the disposal of storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products) that might reduce the quality of water that is now--and in the future will be--available for use by municipalities, individuals, and industries.

2.3.2 DISTRICT BOUNDARIES The Aquifer Protection Overlay District is defined as those areas delineated as potential ground water areas by the U.S.G.S. and shown on the map entitled "Availability of Ground Water In the Pemigewasset and Winnepesaukee River Basins, Central New Hampshire" by John E. Cotton.

Where the bounds, as delineated, are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be located. At the request of the owner(s), the Town may engage a professional geologist or soil scientist to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for all or part of the cost of the investigation. The delineation can be modified by the Board of Adjustment upon receipt of findings of the detailed on-site survey techniques.

2.3.3 USES PROHIBITED For the purposes of this Ordinance, the following regulations shall apply:

2.3.3.1 The following uses are prohibited:

- a. Disposal of solid wastes, other than brush and stumps;
- b. Storage of petroleum or gasoline, and the transmission through pipelines;

- c. The disposal of liquid or leachable wastes;
- d. Impervious surface coverage of more than 10% of any lot.

2.3.3.2 The following uses are permitted by Conditional-Use Permit: that is, subject to the approval of the Planning Board, with such conditions as they may attach to their approval. The Planning Board or the Code Enforcement Officer shall issue the Conditional-Use Permit.

- a. Septic tank or sewage disposal field installation for a single-family residential dwelling with a minimum of 2 acres;
- b. Enlargement or alteration of an existing septic tank or sewage disposal field provided it will not be utilized for an increased use;
- c. Manure pile;
- d. Animal feed lot;
- e. The flooding or mining of land and storage of road salt.

2.3.3.3 A nonconforming use may be continued and/or expanded by not more than a 25% increase in the structure, floor space, bulk, or size or land area and may be replaced or repaired, with the approval of the Planning Board, if the Board believes that the continuing use will not be more detrimental to the protected areas. A nonconforming use which has been discontinued for 12 months may not be resumed.

2.3.4 ADMINISTRATION

Use Permits: No use as listed in Section 2.3.3.2 and 2.3.3.3, shall be conducted within the Aquifer Protection Overlay District until the use has been approved by the Planning Board and a Conditional-Use Permit has been issued by the Planning Board or the Code Enforcement Officer.

The application for a Conditional-Use Permit shall be submitted to the Planning Board and be accompanied by a site plan drawn to an indicated scale and showing the location and dimensions of all significant structures and uses present and proposed. A reasonable fee established by the Planning Board may be required to accompany the application to cover processing costs. In the event that the Planning Board determines to hold a public hearing on an application, it shall hold such hearing within 30 days of receipt by it of a completed application and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

The Planning Board shall, within 30 days of a public hearing or within 60 days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to Issue an order denying or granting approval of the application. Both the approval and the denial of an application or Conditional-Use Permit by the Planning Board shall be in writing and shall state the reason for that decision. A copy shall be given to the applicant.

In consideration of an application for a Conditional-Use Permit, the

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Planning Board shall evaluate the immediate and long-range impact of the proposed use on the ground waters and the possible effects of the proposed use upon the maintenance of safe and healthful conditions. making such evaluation, the Board shall consider such factors as:

1. The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system.
2. The capability of the land and water to sustain such use without degradation.
3. Topography and drainage of the site and susceptibility to flooding.
4. The need of a particular location for the proposed use.
5. The compatibility of the proposed use with adjacent land uses.

The Planning Board, in approving an application for a conditional use, may impose such reasonable restrictions concerning the setback of the structure from the Aquifer Protection Overlay District and like matters, as it deems advisable in order to protect the purity of the ground water.

2.3.5 ENFORCEMENT - It shall be the duty of the Planning Board or the Code Enforcement Officer to enforce the provisions of this Overlay District and to see that its requirements and restrictions are duly complied with.

2.3.6 VIOLATIONS - It shall be the duty of the Planning Board or the Code Enforcement Officer to warn any person, firm, or corporation of violations of this Article by them and to inform them of their right to seek a variance or other relief. A Conditional-Use Permit may be withdrawn by the Town if the use is not conducted in accordance with the regulations of the Ordinance or the conditions of the permit.

The Municipal Officials of the town shall institute or cause to be instituted, in the name of the Town, any and all actions, legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this Ordinance.

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Any persons, firm or corporation, being the owner or occupant of or having control or the use of, or being engaged in the construction or moving of, any structured land or part thereof, found to violate any provision of this Overlay District, shall be guilty of a civil violation and upon conviction thereof, shall be punished by a fine of not less than \$25.00, and not more than \$100.00. Each day such violation is permitted to exist after notification thereof by the Planning Board or the Code Enforcement. Officer shall constitute a separate offense. Such ~ persons shall be liable for any court costs and incurred reasonable attorney fees.

2.3.7 VALIDITY AND CONFLICT WITH OTHER ORDINANCES

2.3.7.1 Validity: Should any section or provision of this Overlay District be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of. this Overlay District.

2.3.7.2 Conflict with other Ordinances: This Overlay District shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or by-law. Where this Overlay District imposes a higher standard for the promotion and protection of health, safety and welfare the provisions of this Overlay District shall prevail.

2.3.8 AMENDMENTS - This Overlay District may be amended by a majority vote of the Town Meeting.

2.3.9. EFFECTIVE DATE - This Overlay District shall become effective upon the date of adoption by the Town.

2.3.10 DEFINITIONS:

- a. Animal Feedlot: A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.
- b. Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially producible potable water.
- c. Ground Water: All the water found beneath the surface of the ground. In this Overlay District the term refers to the slowly moving subsurface water present in aquifer recharge areas.
- d. Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
- e. Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.
- f. Nonconforming Use: Any building or land lawfully occupied by a use at the time of passage of the Overlay District or amendment thereto which does not conform after the passage of this Overlay District or amendment thereto with the regulations of the district in which it is situated.
- g. Sludge: Residual materials produced by water and sewage treatment processes and domestic septic tanks.
- h. Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purpose of this Overlay District, buildings are structures.
- I. Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes junk, refuse, inert fill material and landscape refuse.